

FILED

MAY 25 1995

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEENAN G. CASADY, Clerk
U.S. BANKRUPTCY COURT-SANTA ROSA

In re

GERALD ARMSTRONG,

No. 95-10911

Debtor.

Memorandum of Decision

Debtor Gerald Armstrong is a former member of the Church of Scientology. In 1986, he settled a lawsuit he had filed against the Church by accepting \$800,000.00. In return, he agreed to refrain from divulging certain information about the Church and assisting others in their claims against the Church. The Church alleges that Armstrong has repeatedly violated the agreement. It has been prosecuting an action against Armstrong for breach of contract in state court.

Armstrong filed a Chapter 7 petition in this court on April 19, 1995. Now before the court is the Church's motion for relief from the automatic stay to pursue the state court action. The Church wants to liquidate its damages for breach of the settlement agreement, enforce the preliminary injunction issued by the state court, and seek a permanent injunction somewhat broader than the preliminary injunction. It also seeks to pursue a fraudulent conveyance action against persons to whom Armstrong allegedly gave the \$800,000.00.

The fraudulent conveyance actions belong to the bankruptcy estate. If the causes of action are abandoned pursuant to section 554 of the Bankruptcy Code, then the Church may pursue them. Until then, the actions can be maintained only by the bankruptcy trustee. Accordingly, insofar as the motion addresses the fraudulent

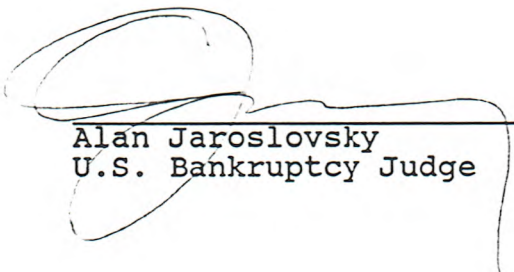
1 conveyance actions it will be denied.

2 The request to pursue the action as to injunctive relief and
3 damages raises very serious legal issues not appropriate for
4 determination in the context of a relief from stay proceeding.
5 These issues include whether an injunction issued to enforce a
6 contract remains enforceable after the debtor's contractual
7 obligations have been discharged, and whether any damages resulting
8 from the action are dischargeable. These issues must be determined
9 by adversary proceeding pursuant to FRBP 7001.

10 For purposes of this motion, it is enough for the court to
11 note that the injunction may survive the bankruptcy discharge, and
12 that any damages may be nondischargeable. Because of these
13 possibilities, the court deems it appropriate for the matter to
14 proceed in state court so long as no enforcement of any judgment is
15 attempted without further leave of this court. To this extent, the
16 motion will be granted. The action may of course proceed without
17 restriction as to any defendants other than Armstrong.

18 Counsel for the Church shall submit an appropriate form of
19 order.

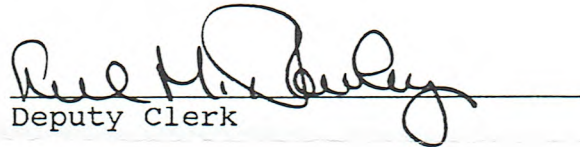
20 Dated: May 25, 1995


Alan Jaroslovsky
U.S. Bankruptcy Judge

CERTIFICATE OF MAILING

The undersigned deputy clerk of the United States Bankruptcy Court for the Northern District of California hereby certifies that a copy of the attached document was mailed to all parties listed below as required by the Bankruptcy Code and Rules of Bankruptcy Procedure.

Dated: May 25, 1995


Deputy Clerk

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